

§ 152.412 Waivers and refunds.

(a) *Refunds.* If an application is not accepted for processing because it is incomplete, the fee, less \$1,200 for handling and initial review (or the amount of the fee, whichever is less), shall be returned. If an application is withdrawn by the applicant before significant Agency scientific review has begun, the fee, less \$1,200, shall be returned. If an unacceptable or withdrawn petition is resubmitted, it shall be accompanied by the fee that would be required if it were submitted for the first time.

(b) *Waiver of fees for activities initiated by the Agency.* The Agency may waive fees for amended registrations where the amendment has been initiated solely by the Agency. The Agency retains sole discretion in determining when this fee will be waived. The announcement of the fee waiver will accompany the EPA request for an amendment. The Agency will not approve any individual requests for waivers of EPA-initiated activity fees.

(c) *Waiver of fees for activities initiated by applicants.* Upon request by an applicant, together with the supporting documentation or justification described in this paragraph, the Agency may waive or refund fees in whole or in part. A request for waiver must be submitted in accordance with § 152.414(a). An application for which a waiver of fees has been requested will not be accepted for review until the waiver has been granted, or until the waiver has been denied and thereafter the proper fee has been submitted.

(1) *Minor use.* Fees may be waived for applications limited to minor uses that lack commercial feasibility for the pesticide applicant. An applicant requesting a waiver on this basis must provide supporting information that demonstrates that anticipated revenues from the uses that are the subject of the application would be insufficient to pay back the cost of the fee. The burden of proof of the reasonableness of this estimate rests with the applicant.

(2) *IR-4.* Fees will be waived for registration actions that are determined to be specifically associated with tolerance petitions submitted by the Inter-Regional Research Project Number 4 (IR-4 program) when such waiver is

deemed by the Agency to be in the public interest.

(3) *Severe economic impact.* The Agency may waive two-thirds of any cumulative registration fee payment in a 12-month period following completion of the applicant's most recent fiscal year that exceeds 3 percent of the applicant's pesticide sales in its most recently completed fiscal year. An applicant requesting a waiver on this basis must provide documentation (e.g. copy of an annual report, or income tax forms filed with the Internal Revenue Service, or if needed, a notarized statement signed by a corporate officer regarding annual pesticide sales) demonstrating that:

(i) The company applying had less than \$40 million in gross revenue (including all revenue sources) in the most recently concluded fiscal year of operation, and a single fee would constitute more than 3 percent of the applicant's gross revenue from pesticide sales in the most recently completed fiscal year of operation, or

(ii) The company applying had less than \$40 million in gross revenue (including all revenue sources) in the most recently concluded fiscal year of operation, and the cumulative registration fees paid during the 12 months following the applicant's most recently completed fiscal year, including any registration fees paid for the applicant for which a waiver is requested, constitute more than 3 percent of the applicant's gross revenue from pesticide sales in the most recently concluded fiscal year of operation.

(iii) The Agency will not grant such a waiver if it determines that the entity submitting the application has been formed or manipulated to qualify for such a waiver.

(4) *Public interest.* The Agency, in its discretion, may waive in whole or in part any of the fees established herein in the public interest. Examples include, but are not limited to, pesticides offering unique advantages for reducing public health risks, those that significantly reduce a current environmental risk, or a product with extraordinary utility for use in Integrated Pest Management (IPM).

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